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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,062	11/02/2001	Rob E. Vogelaar	010579	4927

24737 7590 06/03/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
RAO, ANAND SHASHIKANT	
ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/003,062	VOGELAAR ET AL.	
	Examiner	Art Unit	
	Andy S. Rao	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,8-12 and 16-18* is/are rejected.

7)☒ Claim(s) *5-7,13-15,19 and 20* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 12/23/04 with respect to claims 1-4, 8-12, and 16-18 have been fully considered but they are not persuasive.

2. Claims 1-4, 8-12, and 16-18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Vince in view of Gonzales et al., (hereinafter referred to as "Gonzales"), as was set forth in the Office Action of 9/24/04.

3. The Applicants present three arguments contending Examiner Parson's rejection of claims 1-4, 8-12, and 16-18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Vince in view of Gonzales et al., (hereinafter referred to as "Gonzales"), as was set forth in the Office Action of 9/24/04. However, after a careful consideration of the arguments presented, the Examiner must respectfully disagree, and maintain the rejection of claims for the reasons that follow.

After summarizing the instant invention and offering a synopsis of the applied Vince and Gonzales references (Amendment of 12/23/04: page 7, lines 1-27), the Applicants argue that Vince fails to disclose "processing a portion of said digital multimedia digital bitstream..." as in the claims (Amendment of 12/23/04: page 8, lines 1-15). The Examiner respectfully disagrees. It is noted that Vince discloses means for separating the incoming bitstream based on the extracted protocol data from the associated portion of the bitstream (Vince: column 3, lines 15-35). As such, since the reference discloses differentiating portions of the incoming bitstream, any processing applied to the corresponding bitstream portion of the extracted protocol data would read on the "processing a portion of said digital multimedia digital bitstream..."as in the claims.

Additionally, since Vince discloses that the incoming bitstream includes a number of services (Vince: column 4, lines 1-10), the Examiner notes that each of these individual services provided in the bitstream reads on the "portion" as in the claims.

Additionally, the Applicants argue that since Vince fails address re-encoding as a real-time operation (Amendment of 12/23/04: page 8, lines 7-13). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "real-time...") are not recited in the rejected independent claim(s) 1, 9, and 17. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the independent claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, it is noted that the Gonzales reference discloses that its teaching further takes into consideration real-time processing (Gonzales: column 13, lines 25-35), and thus the combination with Gonzales would address this limitation, were it evident in the independent claims.

After summarizing the Gonzales reference (Amendment of 12/23/04: page 8, lines 13-22), the Applicants argue that Gonzales fails to address the "processing a portion of said digital multimedia digital bitstream..." as in the claims. The Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Since the Vince reference meets the limitation as discussed above, the Gonzales reference would address this limitation based on the combination with the primary reference and would not need to account for it on its own.

Additionally, the Applicants argue that Vince fails to suggest a combination with Gonzales to arrive at a combination that would read on the claims in question is not prima facie obvious (Amendment of 12/23/04: page 8, lines 22-25; page 9, lines 1-15). The Examiner respectfully disagrees. It is noted that since Vince discloses that the teaching could be implemented as a series of circuit boards (Vince: column 4, lines 25-30), one of ordinary skill in the art would find that suggestion motivation enough to consideration the pipelined arrangement of the Gonzales processors which is a configured in a series (Gonzales: column 4, lines 45-55) to take advantage of increased speed in imaging processing and achieve a real-time application (Gonzales: column 13, lines 25-35). Additionally, since both Vince and Gonzales are directed towards the manipulation of a bitstream that adheres to MPEG compression (Gonzales: column 13, lines 35-40), one of ordinary skill in the art would have a reasonable expectation of compatibility between that secondary reference and the primary reference which discloses an MPEG2 data stream (Vince: column 3, lines 13-17). And as discussed above, the Examiner maintains that through the combination of references, all the claim limitations are met. Accordingly, the Examiner maintains that the combination of Vince with Gonzales is prima facie obvious.

Lastly, the Applicants argue that Examiner Parsons has arrived the proposed combination only through impermissible hindsight (Amendment of 12/23/04: page 9, lines 12-25; page 10, lines 1-20). In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Allowable Subject Matter

4. Claims 5-7, 13-15, and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The elements of the claims were not found nor considered obvious by the Examiner. In particular, the BRT' transcoder is defined in the specification as a transcoder capable of transcoding the primary as a subset of the original stream (i.e. in the example given in the current specification, every third slice of the original stream) is processed in each of the three processing stages of the stages of the chain.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (571)-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao
Primary Examiner
Art Unit 2613

asr
May 27, 2005